136.071 Corporation license tax -- Apportionment of capital when corporation holds stock in other corporations.

(1) (a) Notwithstanding KRS 136.070, a bank holding company as defined in KRS 286.3-900 that holds directly or indirectly stock or securities in financial institutions subject to the tax imposed by KRS 136.500 to 136.570 equal to or greater than fifty percent (50%) of its total assets may, at the option of the taxpayer, compute its "capital" under KRS 136.070(2) as follows:

      1. Determine the corporation's total capital as provided in KRS 136.070(2).

      2. Deduct from the amount determined in subsection (a) of this section, the book value of its investment in the stock and securities of any financial institutions subject to the tax imposed by KRS 136.500 to 136.570 in which it owns more than fifty percent (50%) of the outstanding stock.

   (b) Notwithstanding KRS 136.070, a corporation other than a bank holding company that holds directly or indirectly stock or securities in other corporations equal to or greater than fifty percent (50%) of its total assets may, at the option of the taxpayer, compute capital employed in the business using one (1) of the following options:

      1. The corporation and its subsidiaries may file a consolidated license tax return that computes capital employed in the business under KRS 136.070 and includes the parent corporation and all subsidiary corporations in which the parent corporation owns more than fifty percent (50%) of the outstanding stock; or

      2. The corporation may file a separate license tax return and deduct from capital, determined in accordance with KRS 136.070(2), the book value of its investment in the stock and securities of any corporation in which it owns more than fifty percent (50%) of the outstanding stock.

(2) For purposes of determining the ratio of stock and securities to total assets, as it relates to subsection (1) of this section, the value shall be the value of the accounts as reflected on financial statements prepared for book purposes as of the last day of the calendar or fiscal year. The term "stock and securities" as used in this section means shares of stock in any corporation, certificates of stock or interest in any corporation, notes, bonds, debentures, and evidences of indebtedness. The term "book value" means the value as shown on financial statements prepared for book purposes as of the last day of the calendar or fiscal year.

shall apply to corporation license tax returns due without regard to extension on or after April 15, 2004.

Legislative Research Commission Note (4/21/2004). 2004 Ky. Acts ch. 142, sec. 7, provides that the amendments to KRS 136.071 in 2004 Ky. Acts ch. 142, sec. 4, are retroactively effective for tax periods beginning on or after January 1, 2003.

Legislative Research Commission Note (6/24/2003). On April 3, 2003, the Governor vetoed 2003 Ky. Acts ch. 194 (House Bill 390), sec. 19, which had repealed this section. In his veto message, the Governor stated: "House Bill 390 by its title and in its substance, is an appropriations bill subject to the line item veto provisions afforded the Governor under Section 88 of Kentucky's Constitution."

Legislative Research Commission Note. Acts 1976, ch. 25, Â§ 2 provides "The provisions of this Act shall apply to taxable years beginning on or after January 1, 1977."